

REMARKS

Claim 1 is amended to include the limitations of claims 3, 5, and 6, which are now canceled. Claims 9, 17, and 18 are similarly amended. Dependent claim 19 is amended to be consistent with claim 18. The amendments are made for the purpose of expediting prosecution and not for patentability, and the claim cancellations are made without prejudice. Applicants reserve the right to pursue subject matter of the original claims (prior to amendment) and subject matter of the canceled claims in subsequent prosecution. Claims 1-2, 4, 7-10, 12, and 15-19 remain pending in the application. Reconsideration and allowance of the application is respectfully requested.

The Office Action does not establish that claims 1-2, 4-5, 7-10, 12-13 and 15-18 are anticipated under 35 USC §102(e) by "Gupta" (U.S. Patent No. 6,516,315 to Gupta). The rejection is respectfully traversed because all the limitations are not shown to be taught by Gupta. Independent claims 1, 9, 17, and 18, are amended and the rejection is now moot.

Claim 2 includes further limitations of, if the access characteristics of the session are associated with a security level that does not satisfy the security level requirement associated with the one of the services, then prompting the requester for authentication data. The cited teachings of Gupta neither teach nor suggest these limitations, nor are the limitations inherent in Gupta.

The Office Action cites Gupta's col. 10, l. 58 – col. 11, l. 4 as teaching these limitations. However, the cited text, as set forth below, has now apparent correspondence to the prompting for authentication data if the claimed conditions are met. The cited text includes:

If the access to the data object is granted, it is also possible to add an entry to an available access right list noting the functions that are allowed to be performed by the access right's function classification. If the function the user desires to perform on the object that is in the list of available rights, then return "Access granted". Otherwise, return "Access denied" and optionally return the functions that are available. If the user's request consisted of multiple objects, for example multiple instances or attributes, the system can return an appropriate response for each object.

Referring to FIG. 8, a method for controlling access 130 can specifically include the steps of obtaining access 132 to the computer system and providing 134 and identification of the user. In this embodiment of the invention, the system determines each relationship 114 between the user and the data object and determines the security classification for all relationships. Furthermore, the system can determine if no

relationships exist 136 between the object and the user and deny access 124 to the data object on that basis.

Nowhere is it apparent from these teachings that Gupta prompts for authentication data if the access characteristics of the session are associated with a security level that does not satisfy the security level requirement associated with the one of the services. The Office Action also fails to present evidence to support the allegation of inherency. That is, no evidence or explanation is presented to show that Gupta necessarily prompts the user for authentication data if the access characteristics of the session are associated with a security level that does not satisfy the security level requirement associated with the one of the services. Thus, claim 2 is not shown to be anticipated by Gupta. An explanation of the perceived correspondence and an explanation of the alleged inherency is requested if the rejection is maintained.

Claim 4 includes further limitations of the access characteristics including ownership rights of a device with which the session is maintained. The cited portion of Gupta does not teach these limitations. The cited portion appears to teach relationships between users and information objects. There is no apparent reference to a device and ownership rights. Thus, claim 4 is not shown to be anticipated. If the rejection is maintained, an explanation of the element of Gupta that is read to be a device is respectfully requested.

The limitations of claim 5 are now included in amended claim 1. These limitations include the access characteristics including characteristics of a network over which the session is maintained. The cited portion of Gupta teaches providing access to a network. There is no apparent suggestion of any determining the access characteristics of a network and then establishing a session security level from the access characteristics of the session and the combinations of access characteristics and associated security levels. Furthermore, Gupta's access rights (e.g., FIG. 5) are apparently alleged to correspond to the claimed access characteristics, and Gupta does not in any apparent manner suggest (see Gupta's FIG. 5 and accompanying description) that the access rights include network characteristics. Thus, the Office Action does not show that claim 5 is anticipated.

Claims 7 and 8 further refine the limitations of claim 1, and the Office Action does not show that Gupta anticipates these claims for at least the reasons set forth above for claim 1.

Claims 10, 12, and 15 are not shown to be anticipated for at least the reasons set forth above for claims 2, 4, and 7.

The Office Action fails to establish that claims 3, 6, 11, 14 and 19-20 are unpatentable under 35 USC §103(a) over Gupta. The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the Gupta, fails to provide a proper motivation for modifying Gupta, and fails to show that the modification could be made with a reasonable likelihood of success.

The Office Action acknowledges that the limitations of the claims 3, 11, and 19 are not taught by Gupta, but alleges that modifying Gupta to include the limitations of claims 3, 11, and 19 would have been obvious “because doing so would improve the quality of service by quickly realizing the user’s device type and providing relevant service to the user.” However, this alleged motivation is conclusory and therefore improper. For example, the Office Action cites no evidence to support the assertion that the “quality of service” of Gupta’s system could be improved. No evidence is provided to indicate how the quality of service would be improved; no evidence is provided to indicate what the “quality” being improved is; and no evidence is provided that indicates that Gupta’s quality of service is in any way lacking. There is also no apparent showing that the modification could be made with a reasonable likelihood of success.

The Office Action acknowledges that the limitations of the claims 6, 14, and 20 (the limitations of which are now included in the base claims) are not taught by Gupta, but alleges that modifying Gupta to include the limitations of these would have been obvious “because doing so would improve the dynamic ability of the system by allowing users select a method based on their preference and need.” This alleged motivation is conclusory and therefore improper. The Office Action cites no evidence to support the assertion that the “dynamic ability” of Gupta’s system could be improved, nor is it apparent what dynamic ability of Gupta is thought to be the target of improvement.

Furthermore, the limitations include authenticating the requester with a selected authentication method and the access characteristics including characteristics of the access method. The Office Action does not explain what the “dynamic ability” has to do with these limitations. There is also no apparent showing that the modification could be made with a reasonable likelihood of success.

The alleged motivations are improper because only broad and vague benefits are recited. Addressing the “rigorous ... requirement for a showing of the teaching or motivation to combine prior art references,” the Court of Appeals for the Federal Circuit stated in *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614 (Fed. Cir. 1999):

We have noted that evidence of a suggestion, teaching, or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, (citations omitted), although “the suggestion more often comes from the teachings of the pertinent references,” *Rouffet*, 149 F.3d at 1355, 47 USPQ2d at 1456. The range of sources available, however, does not diminish the requirement for actual evidence. That is, the showing must be clear and particular. See, e.g., *C.R. Bard*, 157 F.3d at 1352, 48 USPQ2d at 1232. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence.” (citation omitted)

The alleged motivation is merely a broad conclusory statement of alleged benefits, and no evidence has been provided to the combination.


Furthermore, combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight. See, e.g., *Interconnect Planning Corp v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985) (“The invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time.”). *Id.* Because the Office Action fails to present evidence in support of a motivation for combining the references, the alleged motivation is improper.

The rejection of claims 3, 6, 11, 14 and 19-20 over Gupta should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

Withdrawal of the rejection and reconsideration and allowance of the claims are respectfully requested. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (HPCO.039PA).

Respectfully submitted,

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